



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



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TO: George Sheldon, J.D.
Acting Assistant Secretary
Administration for Children and Families

FROM: Daniel R. Levinson *Daniel R. Levinson*
Inspector General

SUBJECT: Management Implication Report 12-0005 – Child Care and Development Fund:
The Need for Enhanced Provider Screening

PURPOSE

The purpose of this Management Implication Report (MIR) is to alert your office to the weak controls in place for screening childcare providers in the Child Care and Development Fund (CCDF). This vulnerability could imperil the health and safety of beneficiary children.

BACKGROUND

The Child Care Bureau in the Office of Family Assistance of the Administration for Children and Families (ACF) administers CCDF grants. The CCDF provides childcare subsidies to low-income families where the parents are employed or engaged in approved job training. The legislative authority for CCDF is found at Section 658 of the Child Care and Development Block Grant Act of 1998. ACF rules governing the program are in 45 CFR Parts 98 and 99. Congress appropriated \$2.278 billion for fiscal year 2012 to fund CCDF.¹

Under CCDF, States designate a lead agency to be accountable for the grant funds provided. The lead agency submits a biennial plan to the Secretary of the Department of Health and Human Services (HHS) that specifies the State's funding request and details how the lead agency intends to administer the program. The full responsibilities of the lead agency are explained in 45 CFR 98 Subpart B – General Application Procedures.

¹ ACF All-Purpose Table, 2010 – 2012. Accessed at <http://transition.acf.hhs.gov/sites/default/files/assets/fy2012apt.pdf> on June 13, 2012.

ACF rules and guidance stipulate different factors that States should use when screening child(ren), parent(s), and child care provider(s).² Because this MIR concerns CCDF rules with respect to childcare providers, we will focus on those and not the requirements pertaining to child eligibility or parent employment or training obligations.

With regard to providers, CCDF rules indicate that States must

“[c]ertify that they have in effect licensing requirements applicable to child care services provided within the area served by the Lead Agency” and “certify that there are in effect, within the State ... requirements designed to protect the health and safety of children that are applicable to child care providers of services for which assistance is provided under this part.”³

For the purposes of the CCDF, types of providers include nonprofit providers, for-profit providers, sectarian providers, and relatives who provide care.⁴ ACF has recommended methods States might use to monitor providers, including “requiring background checks of providers and other adults in the child care setting, visiting the provider to check for health and safety compliance, or conducting mandatory health and safety training sessions a provider must complete before receiving CCDF funds.”⁵ However, the ACF guidance addresses best practices and does not set forth requirements regarding the type of information and/or documents that should be collected from those listed as providers on CCDF applications. States maintain rosters of licensed childcare providers from which parents can make choices. At the same time, the CCDF rule and guidance require that States be flexible in tailoring provider requirements to maximize parental choice. As a consequence, States have broad authority to exempt certain categories of childcare providers from State licensing requirements and from health and safety requirements.

DISCUSSION

OI received an allegation that the Child Care Division (CCD) of the Oregon Department of Employment, the CCDF Lead Agency for the State of Oregon, was making payments to undocumented foreign nationals as childcare providers. In the course of investigating this allegation, OI analyzed how a person becomes a childcare provider eligible for CCDF payments in Oregon. The most direct path is to be employed by a State-licensed childcare provider. While ACF requires grantees to certify that they have in effect childcare licensing requirements

² Use of Social Security Numbers (SSN) under CCDF and the Privacy Act of 1974, ACYF-PI-CC-00-04 (Issued October 27, 2000). Accessed at http://www.acf.hhs.gov/programs/ccb/law/state_byyear.htm on June 21, 2012.

³ 45 CFR 98.40(a).

⁴ 45 CFR 98.2.

⁵ Program Integrity, Financial Accountability, Access to Child Care, CCDF-ACF-PI-2010-06 (Issued August 26, 2010). Accessed at http://www.acf.hhs.gov/programs/ccb/law/state_byyear.htm on June 21, 2012.

designed to protect the health and safety of children in a provider's care, grantees are free to exempt categories of providers from these requirements to increase parental choice. OI found that CCD exempts several categories of childcare providers from State licensing requirements, including providers who:

- care for three or fewer children, not including their own children;
- care for any number of children from the same family, not including their own children; and
- provide care in the home of the child(ren).⁶

CCD requires all childcare providers to enroll in the Central Background Registry (CBR). CCD operates the CBR "to ensure that all individuals working in or associated with child care facilities and other early childhood care and education programs in Oregon have received criminal history and child protective services records checks and have been determined suitable to work with children."⁷ To enroll in the CBR, prospective childcare providers must submit an application form (CBR-601). The information from the CBR-601 is used to perform background checks. OI found the CBR enrollment process to be seriously flawed. All information on the CBR-601 is self-reported by the applicant. Although the CBR-601 indicates that a SSN is "required," applicants may fill out a form, CO-512, *CCD statement of No Social Security number*, and provide a Federal tax identification number (ITIN) as an alternative.⁸ No photo identification is required. Only individuals who have not lived in Oregon for the prior 18 months are required to submit fingerprints as part of the background check. The fingerprint requirement may also be waived if the applicant is a student attending college from out of State or has arrived in Oregon directly from another country.

OI identified 15 CCDF childcare providers who received over \$30,000 in payments in 2010 who had not provided a valid SSN on their CBR application. Some simply filled out a form CD-512 and provided an ITIN; others provided SSNs that were invalid or belonged to someone else.⁹

⁶ "Types of Licensed Child Care in Oregon." Accessed at http://www.oregon.gov/EMPLOY/CCD/docs/forms/LIC-311_04-18-12.pdf on June 21, 2012.

⁷ "Central Background Registry." Accessed at <http://www.childcareinoregon.org> on June 21, 2012.

⁸ According to the Internal Revenue Service (IRS), "ITINs are for federal tax reporting only, and are not intended to serve any other purpose." "What is an ITIN used for?" Accessed at <http://www.irs.gov/individuals/article/0,,id=222209,00.html> on June 13, 2012.

⁹ With regard to the original purpose of the investigation, OI found that none of these 15 individuals provided sufficient information to verify their eligibility to work in the United States. Since the legislation authorizing CCDF block grants does not specifically exclude undocumented individuals as child care providers or instruct States to verify the employment eligibility of CCDF child care providers, the issue of undocumented workers possibly becoming CCDF-approved child care providers is beyond the scope of this MIR. We note, however, that the CCDF rule states that Lead Agencies must administer the program "in accordance with ... all other applicable Federal laws and regulations." 45 CFR 98.15(a)(1).

Even though all these individuals successfully enrolled in CBR, it is highly unlikely that they provided enough information for CCD to verify the provider's identity or perform a thorough background check.

OI's investigation echoes the findings of a recent Government Accountability Office (GAO) study that, on the basis of reviewing CCDF application procedures in five States, reported a lack of effective controls to verify the backgrounds of childcare providers who are related to the children they care for. GAO reported that this vulnerability "creates the possibility that criminals, including registered sex offenders, using stolen identities could obtain federal subsidies to care for children."¹⁰ The program goals of flexibility and parental choice should not be achieved at the expense of the health and safety of CCDF beneficiary children. Health and safety should be of paramount concern.

RECOMMENDATIONS

1. Require all CCDF childcare providers to undergo background checks.

ACF recommends that States conduct provider background checks, but given the importance of child health and safety, background checks should be required. Possible criteria for background checks include criminal histories, sex offender registries, child abuse registries, and other database searches targeted at identifying those who pose a particular threat to children. Although Oregon has a system for verifying the backgrounds of CCDF childcare providers, as do the five States reviewed in the GAO study, this is not required by the CCDF rule. Inappropriate individuals should not have access to the CCDF program because a State exempts certain categories of providers from its licensing requirements.

2. Work with the States to develop minimum documentation standards for CCDF childcare provider applicants.

ACF should require that States collect and review additional documentation, such as State-issued photo identification, to provide sufficient information to verify the applicant's identity and perform background checks.

In the GAO report, the SSN was identified as the "key element in the verification of a person's identity," although some States were uncertain of their legal authority to collect and verify SSNs. Oregon is one example of a State that does not require childcare providers to supply SSNs on applications.

¹⁰ GAO, *Child Care and Development Fund. Undercover Tests Show Five State Programs Are Vulnerable to Fraud and Abuse*, GAO-10-1062, September 2010.

3. Consider whether to revise the definition of an “eligible child care provider” at 45 CFR 98.2 to ensure that ACF guidance is consistent with other Federal laws and regulations.

ACF regulations at 45 CFR 98.15 require that CCDF grantees follow all applicable Federal laws and regulations. We recommend that ACF consider whether its definition of an “eligible child care provider” requires revision to ensure it is consistent with, for example, 8 U.S.C. 1324(a)(1)(A), which states that “it is unlawful for a person or other entity to hire ... for employment an alien knowing the alien is an unauthorized alien”

We are referring this MIR to your office for review and followup.

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Please notify this office in writing within 30 days regarding any action taken or planned in this matter.

Thank you for your attention to this MIR. If you have any questions, please do not hesitate to contact me or your staff may contact Investigations Analyst (b)(6), (b)(7)c at (b)(6), (b)(7)c .